

RESOLUTION 06-13

Town of Westfield Establishing Reverse Auction Procedures

WHEREAS, IC 5-22-7.5 ("Act") authorizes municipalities to purchase supplies through a reverse auction process; and

WHEREAS, the Town of Westfield, Indiana ("Town") is a municipality; and

WHEREAS, the Act requires that certain policies be adopted before the Town may participate in a reverse auction; and

WHEREAS, the Town Council of the Town has previously designated all Operating Departments as a purchasing agency; and

WHEREAS, the Act requires a purchasing agency to adopt policies governing the use of a reverse auction before the Town may purchase supplies and other legally eligible capitol items through a reverse auction; and

WHEREAS, IC 5-22 ("Purchasing Statute") permits a purchasing agency to adopt policies to supplement IC 5-22 or a rule adopted by the Council, so long as the policies are not inconsistent with the Purchasing Statute or a rule adopted by the Council; and

WHEREAS, all operating departments now desire to adopt policies consistent with the Act and the Purchasing Statute to enable all operating departments to purchase supplies through a reverse auction; now, therefore;

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, AS FOLLOWS:

SECTION 1. REVERSE AUCTION PROCEDURES.

A. Use of Third Party to Conduct Reverse Auctions.

1. (a) The purchasing agency is authorized to use a third party to conduct reverse auction on behalf of the Town for the purchase of supplies. The purchasing agent is authorized to select the third party that will conduct the reverse auction, who must have prior experience in conducting reverse auctions on behalf of local governments.

(b) The purchasing agent shall obtain a copy of the procedures established by the third party to conduct the reverse auction on behalf of the Town and present those procedures to the Operating Department for adoption and inclusion in its applicable procedures prior to participating in a reverse auction conducted by the third party.

B. Transmission of Notices, Solicitations and Specifications.

1. Notices. The Operating Department shall give notice of a reverse auction by:

- a. publishing notice of the invitation to bid two times, at least one week apart, with the second publication at least seven days before the commencement of the reverse auction in accordance with IC 5-22-7-5, and IC 5-22-18 and IC 5-3-1;
- b. posting the invitation to bid on the Town's website; and
- c. if a third party is conducting the reverse auction on behalf of the purchasing agency, by posting, or permitting to have posted, the invitation to bid on the third party's website.

Note: Posting the invitation to bid on a website requires compliance with IC 5-22-3-4.

Note: ALL operating departments may also give notice of a reverse auction by electronic mail or faxes.

2. Solicitations and Specifications. All Operating Departments shall transmit solicitations and specifications by:

- a. in accordance with the invitation to bid, identifying a designated location where, during regular business hours, the invitation to bid may be inspected and copied or copies may be obtained; and
- b. making them available on the Town's website or providing information on the website identifying a designated location where, during regular business hours, the invitation to bid may be inspected and copied or copies may be obtained;
- c. if a third party is conducting the reverse auction on behalf of the purchasing agency, making them available on the third party's website.

Note: Posting the invitation to bid on a website requires compliance with IC 5-22-3-4.

C. Pre-Qualification of Bidders.

1. All bidders desiring to participate in a reverse auction must be pre-qualified by submitting materials to ensure that they meet the specifications identified by the buyer as to the types of supplies to be offered for purchase no later than 24 hours prior to the time for the commencement of the reverse auction, as provided in the invitation to bid.

2. The pre-qualification process shall be used to determine whether the bidder is responsible and responsive, as provided in the Act, whether there is any bidding or purchasing preference or preferences applicable to a particular bidder, and whether the bidder has submitted evidence of financial responsibility, as required by the purchasing agency. In order to assist the Operating Department in pre-qualifying bidders, the bidder must submit, in accordance with the invitation to bid, all documentation and other information relating to the supplies being offered for purchase, except for price, and any other information that may assist all operating departments in making its determination. Such documentation will include evidence of financial responsibility or a certified check, as specified in the invitation to bid.

3. In determining whether a bidder is responsible, the purchasing agent may consider the following factors:

- (a) the ability and capacity of the bidder to provide the supplies.
- (b) the integrity, character, and reputation of the bidder.
- (c) the competency and experience of the bidder.

4. In determining whether a bidder is responsive, a purchasing agent may consider the following factors:

(a) whether the bidder has submitted information demonstrating that his offer for supplies conforms in all material respects to the specifications.

(b) whether the bidder has submitted documentation that complies specifically with the solicitation and the instructions to bidders.

(c) whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

5. The determination that a bidder is not responsive or not responsible must be made in writing.

6. Pre-qualification of bidders must be done by the purchasing agent or an authorized representative of the purchasing agency in the presence of one or more

witnesses and must be completed no later than twenty-four hours prior to the commencement of the reverse auction bidding period.

7. All Operating Departments shall notify any bidder determined to be not pre-qualified in writing, by facsimile, or electronic mail (as requested by the bidder) and shall exclude the bidder so notified from participation in the reverse auction.

8. All Operating department's determination that a bidder is not pre-qualified is limited to the reverse auction for which the request for pre-qualification was received.

D. Contents of Invitation to Bid.

The invitation to bid must include all of the following:

(1) A purchase description.

(2) A statement that bids will be accepted by means of a reverse auction process.

(3) A description of all contractual terms and conditions that apply to the purchase, including the requirement of a noncollusion affirmation by the successful bidder.

(4) The criteria that will be used by the purchasing agency to pre-qualify bidders to determine whether a bidder is responsive and responsible.

(5) The information and other documentation required to be submitted for pre-qualification, including a certified check or other evidence of financial responsibility.

(6) The location and manner in which bidders must submit information for pre-qualification, the deadline for submission of such information, and the deadline by which the Operating Department will determine whether a bidder is pre-qualified.

(7) The location, including any websites, at which the invitation to bid may be inspected and copied or copies may be obtained, including, if a third party is conducting the reverse auction, the procedures to be used by the third party to conduct the reverse auction.

(8) A statement as to whether a third party is conducting the reverse auction on behalf of the Town.

(9) A statement that offers submitted by pre-qualified bidders will only be received through the Town's secure website; or if a third party is conducting the reverse auction on behalf of the Town, through the third party's secure website.

(10) The date and time at which the reverse auction bidding period will commence and the approximate length of time for which the reverse auction will be conducted, allowing automatic extensions based upon resulting competitive activity.

(11) The deadline by which pre-qualified bidders must submit an initial price to a secure website for the purposes of establishing a bidder's participation and initial ranking at the commencement of the reverse auction bidding period.

(12) A statement explaining that the bidding period during which the reverse auction is conducted may be extended based upon competitive activity, at pre-determined periods determined by the purchasing agency.

(13) A statement identifying the circumstances, under which the reverse auction may be postponed, paused, rescheduled, or cancelled.

(14) The place and approximate time at which, following the close of the bidding period, offers will be reviewed publicly by an authorized representative of the purchasing agency in the presence of one or more witnesses.

(15) A statement that the third party conducting the auction on behalf of the Town, will collect a service charge from the successful bidder for its participation in the reverse auction.

(16) The name, address, and telephone number of a representative of the purchasing agency who can provide additional information related to the reverse auction.

(17) If a third party is conducting the auction on behalf of the Town, the name, address, and telephone number of a representative of the third party who can provide additional information related to the reverse auction, including the mandatory training required of all pre-qualified bidders as a condition of participating in the reverse auction.

(18) The conditions under which the invitation to bid may be cancelled or postponed in accordance with IC 5-22-18-2.

E. Receiving Offers.

1. The Town's Operating Departments shall receive offers only from bidders who have been pre-qualified, in accordance with the invitation to bid.

2. If a third party conducts the reverse auction on behalf of the Town, all pre-qualified bidders must receive training provided by the third party in order to participate in the reverse auction.

3. Prior to receiving electronic offers, the Operating Department must find that: (a) the invitation to bid for the reverse auction indicates the procedure for transmitting the electronic offer; and (b) the electronic system on which the offer is received has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

4. In accordance with the invitation to bid, offers submitted by pre-qualified bidders will only be received:

a. through the Town's secure website; or

b. if a third party is conducting the reverse auction on behalf of the Town, through the third party's secure website.

F. Reverse Auction Bidding Period.

1. For each reverse auction, the purchasing agent must establish an initial bidding period during which bidders may submit prices for which the supplies being offered may be purchased. The initial bidding period shall not be less than one hour. The purchasing agent may automatically extend the reverse auction bidding period for additional pre-determined periods based upon competitive activity.

2. During the bidding period for the reverse auction, information available for public display is limited to the ranking, price and name of bidders of each price bid relative to all other prices bid.

3. The dollar amounts of the prices bid by bidders shall not be disclosed to the bidders until the close of the bidding period.

4. All information received, obtained or retained during a reverse auction remains confidential and may not be disclosed until after the close of the reverse auction bidding period.

G. Opening Offers.

1. In accordance with the Act, offers will be deemed to be opened when a computer generated record of the information contained in all bids received from pre-qualified responsive and responsible bidders is reviewed publicly at the close of the bidding period for the reverse auction in the presence of one or more witnesses at the time and place designated in the invitation for bids by the purchasing agency (or an authorized representative of the purchasing agency, including the purchasing agent).

2. The purchasing agency, and any of its agents or employees are prohibited from displaying for public viewing the amount of each initial bid price until the close of the initial bidding period for the reverse auction. The purchasing agency is required to

protect the identity of a bidder and the prices which have been submitted by each bidder until the initial bid has been placed until the reverse auction begins, at which time bids will be deemed opened.

H. Contract Award.

1. In accordance with IC 5-22-7-8, the purchasing agency must award a contract for the purchase of supplies with reasonable promptness by written notice to the lowest responsible and responsive bidder.
2. If the contract is not awarded to the lowest bidder, the purchasing agent must indicate the reasons for the award in writing.
3. As provided in the invitation to bid, the third party conducting the reverse auction may impose a fee as a term of the contract for a purchase made by means of a reverse auction.

I. Purchase Orders and Payments.

1. A fully executed purchase order must be filed with the Clerk-Treasurer within thirty days after the award of a contract of a purchase of supplies through a reverse auction in accordance with IC 5-22-18-5.
2. Payments for supplies purchased in a reverse auction shall be made only after receiving properly submitted claims in accordance with IC 5-11-10 and IC 36-5-4.

J. Documentation.

The purchasing agency shall be required to maintain adequate documentation regarding its reverse auctions so that the transactions may be audited as provided by law. The purchasing agency shall maintain an indexed file of specifications prepared by or under the authority of its purchasing agents for each reverse auction in which the purchasing agency participates.

ALL OF WHICH IS RESOLVED this 12 day of June, 2006.

WESTFIELD TOWN COUNCIL

Voting For

Teresa Otis Skelton

Jack Hart

David Mikesell

Bob Smith

Ron Thomas

Voting Against

Teresa Otis Skelton

Jack Hart

David Mikesell

Bob Smith

Ron Thomas

Abstain

Teresa Otis Skelton

Jack Hart

David Mikesell

Bob Smith

Ron Thomas

ATTEST:

Cindy Gossard
Clerk-Treasurer, Cindy Gossard

This ordinance prepared by
Jerry Rosenberger, Town Manager

Town of Westfield
Insert name of purchasing agency]

Jerry Rosenberger, Town Manager
Presiding Officer

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